IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

IT Appeals No. 594,595,596 of 2006
Date of Decision : 03.07.2007

The Commissioner of Income Tax-I, Chandigarh

..... Appellant

Versus

M/s Punjab State Co-operative Bank Ltd.

.....Respondent

CORAM : HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

Present: Mr. Sanjeev Bansal, Advocate
for the revenue.

JUDGEMENT

M.M. KUMAR, J.

This order shall dispose of ITA No. 594, 595 and 596 of 2006 as all the appeals are directed against one common order dated 16-06-2006 passed by Income-Tax Appellate Tribunal, Chandigarh Bench (B) in ITA No. 519, 404 and 405/Chandi/2005 in respect of Assessment Years 1999-2000, 2000-01 and 2001-02. The revenue has claimed in these appeals filed under Section 260 A of the Income-Tax Act 1961(for brevity 'the Act') that the following substantive question of law needs to be determined by this Court:-

> "Whether on the facts and in the circumstances of the case, the Hon'ble ITAT was right in law in holding that the assessee-bank is entitled to claim

deduction under Section 80P(2)(a)(i) in respect of income earned from utilization of its voluntary reserves other than the statutory reserves in HDFC bonds not approved by RBI and NABARD?"

The facts are not in dispute. The assessee is a Co-operative Bank engaged in the business of banking. It has claimed that the whole of its income is deductible under Section 80P(2)(a)(i) of the Act. The Assessing Officer in his order dated 16-10-2002 passed under Section 143 (3) held that the assessee had earned interest of Rs. 75,00,000/- (Rupees Seventy Five Lakhs only) in respect of Assessment Year 1999-2000 from the investment made in HDFC bonds and after granting deduction of 20% as expenditure, the balance income of Rs. 60,00,000/- (Rupees Sixty Lakhs only) has been treated as income from 'other sources'. Accordingly the same has been taxed.

On appeal the Commissioner of Income-Tax (Appeal) upheld the view taken by the Assessing Officer in her order dated 16-03-2005.

On further appeal filed by the assessee the Tribunal accepted the contention raised by the assessee by placing reliance on a Division Bench Judgement of this Court in the case of **Commissioner of Income-Tax v. Nawanshahar Central Co-operative Bank Ltd. (2003), 263 ITR 320** and also the judgements delivered by the Hon'ble Supreme Court in the cases of **Commissioner of Income-Tax v. Karnataka State Co-operative Apex Bank (2001), 251 ITR 194 and Mehsana District Central Co-operative Bank Ltd. v. Income-Tax Officer (2001), 251 ITR 522.** The Tribunal has noticed that the learned counsel for the revenue was not able to controvert the argument raised by the counsel for the assessee who had

placed reliance on the aforementioned judgements.

On the basis of the aforementioned Division Bench Judgement of this Court and that of Hon'ble the Supreme Court, the Tribunal has held that the income earned from HDFC bonds was eligible for deduction under Section 80P(2)(a)(i) of the Act. The Tribunal rejected the contention of the revenue that the income earned from HDFC bonds has to be regarded as income from other sources which was not to qualify for exemption under Section 80P(2)(a)(i) of the act. Accordingly, direction was issued to the Assessing Officer to allow the claim of the assessee.

Mr. Sanjeev Bansal, counsel for the revenue has argued that the banks are required to invest funds in the approved security for the purposes of maintaining statutory liquidity ratio/cash reserve ratio. According to the learned counsel, there are mandatory requirements prescribed by the Reserve Bank of India for carrying on the business of banking. Learned Counsel has maintained that the investment made by the assessee in the HDFC bonds was not in the approved securities as per qualification issued by the National Bank for Agricultural and Rural Development (NABARD).

We have examined the contention raised by the learned counsel and express our inability to accept the same because no such argument has been raised before the Tribunal. A perusal of the order dated 16-6-2006 passed by the Tribunal on the contrary shows that the counsel for the revenue was not able to controvert the argument of the assessee who relied upon the judgements of Hon'ble the Supreme Court in **Income-Tax v. Karnataka State Co-operative Apex Bank (2001), 251 ITR 194 and Mehsana District Central Co-operative Bank Ltd. v. Income-Tax Officer (2001), 251 ITR 522** and also Division Bench judgement of this

Court in the case of **Nawanshahar Central Co-operative Bank Ltd.** (supra) . Even otherwise, the argument now canvassed before us does not carry any weight. Learned counsel has not been able to point out any mandatory requirements prescribed by the Reserve Bank of India for carrying on the business of banking which may require investment of funds in the approved security for the purposes of maintaining statutory liquidity ratio/cash reserve ratio. Therefore, the question of law which is claimed by the revenue would not emerge from the order of the Tribunal and in the absence thereof, it is not possible for this Court to answer the same.

In view of the above, the order of the Tribunal dated 16-6-2006 is upheld and the appeals are accordingly dismissed.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

July 03, 2007
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